

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KAI BARKSDALE,

Plaintiff,

-against-

THE CITY OF NEW YORK, LIEUTENANT
CHRISTOPHER CUNHA, tax # _____, POLICE
OFFICER WILLMER HERNANDEZ, shield #5901,¹

Defendants.

09 CV 1198 (FB)(MDG)

STIPULATION AND
ORDER OF
SETTLEMENT AND
DISMISSAL

WHEREAS, plaintiff KAI BARKSDALE commenced an action entitled Kai Barksdale v. City of New York, et al., 09 CV 1198 (FB)(MDG), in the United States District Court for the Eastern District of New York, on March 23, 2009, by filing a complaint in the United District Court for the Eastern District of New York, alleging, *inter alia*, violations of his civil rights pursuant to 42 USC § 1983; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's allegations in this action; and

WHEREAS, the parties now desire to resolve the issues raised in this action, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. This action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

¹ In accordance with Fed. R. Civ. P. 5.2, the tax number in the caption of plaintiff's First Amended Complaint is redacted in the instant filing.

2. The City of New York, on behalf of defendants City of New York, Willmer Hernandez and Christopher Cunha, hereby agrees to pay plaintiff **KAI BARKSDALE** the sum of **FIFTY THOUSAND (\$50,000.00) DOLLARS** in full satisfaction of all claims, including claims for costs, expenses and attorney fees in this action. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against defendants City of New York, Willmer Hernandez and Christopher Cunha in this action, and to release defendants and all present and former employees and agents of the City of New York and the New York City Police Department from any and all liability, claims, or rights of action arising from and contained in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to the City defendants' attorneys all documents necessary to effect this settlement, including, without limitation a General Release based on the terms of paragraph 2 above and an Affidavit of Status of Liens.

4. Nothing contained herein shall be deemed to be an admission by the defendants that it has in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation and settlement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.


5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or the New York City Police Department.


6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
_____, 2010

Richard Cardinale, Esq.
Attorney for Plaintiff
Brooklyn, New York 11217

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City of New York
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By: 
Richard Cardinale, Esq.

By: 
Caroline Chen
Assistant Corporation Counsel

SO ORDERED:

FREDERIC BLOCK, U. S. D. J.